

CHALLENGE: REGULATING DREDGE AND FILL ACTIVITIES

“The permitting process should be streamlined and more user friendly” Williamsburg Session*

Numerous Permits

- In Fiscal Year 2000, the Corps processed nearly 90,000 permits. Of these, 90% were approved within 60 days, while 2500 complex permits required four months or more.
- A majority of authorized projects are modified and conditioned to protect the aquatic environment and fulfill other public interests while allowing needed economic development.
- The Corps denied 180 permits in Fiscal Year 2000.

Wetlands

- During Fiscal Year 2000, permit applicants were authorized to fill approximately 18,900 acres of wetlands. In return, applicants were required to create, enhance, restore, or preserve more than 44,000 acres of wetlands.

Nationwide Permits

- The Corps recently revised its nationwide permit program to better safeguard the aquatic environment while assuring expedited review for projects having minimal impacts.

Enforcement

- During Fiscal Year 2000 there were 5,700 violations reported. Most were resolved through voluntary restoration or by using after-the-fact permits. Less than 1% required litigation.

**Topics in this paper were identified at 16 Listening Sessions between June and November 2000. The purposes of the Listening Sessions were to start a dialogue and to provide citizens an opportunity to tell us what they believed the Federal role should be in addressing water resources.*

Streamline the permitting process, but not at the cost of the environment

Participants identified a variety of regulatory issues during the listening sessions. The majority of comments were directed at permitting and the process of obtaining permits. Additional comments were made about regulatory enforcement, regulatory funding, procedural issues, and communication problems.



Regulating fill in the Nation's water and wetlands drew many comments at the Listening Sessions – from the need to clarify legislative authority to better enforcement and intergovernmental cooperation.

People expressed a need to streamline the Section 404 (Clean Water Act) permitting process, simplifying it and making the process easier to understand. They felt permits

Comments from the Listening Sessions

“Simplify and standardize the permitting process.” Dallas Session

“Identify ‘Hot spots’ or sensitive areas on GIS.” Dallas Session

“The 404 permit process takes too long and funding opportunities are lost or projects can’t be maintained.”

Phoenix Session

“Regulations are better suited for eastern watersheds.” Phoenix Session

“Develop regional regulations/solutions for regional problems. Definitions created to solve problems in the east don’t necessarily apply in the west.”

Phoenix Session

“Need to clarify water rights in the western United States.” Phoenix Session

“Improve monitoring and enforcement of mitigation requirements for all projects.” Sacramento Session

“Issue blanket permits for emergency situations.” Sacramento Session

“Improve public access to permit applications.” Sacramento Session

“Better coordination between regulators and permit applicants.”

Vancouver Session

“Streamline permitting process and make it easier to understand.”

Vancouver Session

“More stringent controls are needed over regulatory permitting. Corps needs to say no to project.” New Brunswick Session

“Need for consistency in 404 permitting actions. Need accountability for decisions made at local level.” Williamsburg Session

were difficult to obtain and needed to be more readily accessible. Furthermore, participants felt it was difficult to track permits after they had been submitted.

Participants stressed a need for more consistency and efficiency in processing 404 permit applications. Even though consistency was stressed, separate processes for the East and West were recommended. Additional issues were presented relating to loopholes in the 404 process, extensive delays in processing 404 permits, and insufficient funding for 404 permits. A few participants felt the permitting process was structured to accommodate the commercial and industrial sectors. Because of this, participants felt communities and the environment were not significantly considered and the preservation of whole systems, including wetlands, was insufficient.

Participants felt additional regulatory enforcement was needed to ensure regulations were being properly implemented. Insufficient staffing was thought to be a major problem in assuring proper enforcement. Participants felt regulatory violations were widespread, but could not be controlled with the current staff and funding appropriations.

Regional Concerns

Areas where regulatory issues received the most attention included Phoenix, AZ; Sacramento, CA; and Louisville, KY.

Participants in Phoenix expressed the need for an alternate permitting structure for the west, because the current permit structure is designed more for East Coast environments. Phoenix participants also felt additional communication was necessary between Federal and State agencies. Additionally, increased assistance (e.g. workshops, staff support) should be provided to persons submitting permit applications.

Sacramento participants voiced similar concerns. Streamlining the 404 permit application process was mentioned, along with reducing the time spent on the approval process. One recommendation was to involve Corps Districts and State agencies more. Other recommendations were to develop a better process for informing applicants about 404 appeals, making information readily available on the Internet, or developing a database for tracking permitting information.

In Louisville, participants also felt the 404 permit process needed to be refined. Participants felt loopholes in the 404 process existed, such as the use of dredge fill for various applications. Some participants did not agree with the use of dredge fill because of the potential hazards associated with such materials. Participants felt additional consideration was needed in the permitting process for communities and ecosystems.



Section 404 Regulatory Program is a principal way by which the Federal government protects wetlands and other aquatic environments.

Americans say the Federal government should:

- Create a “one-stop” permit source, rather than the current multi-agency system.
- Sponsor training workshops on the permit application and permit appeals processes.
- Ensure that permit offices continue to provide assistance to applicants, such as proposing alternatives.
- Grant long-term regulatory permits to local sponsors for their project maintenance responsibilities.
- Develop a database of cumulative impacts of permitted activities.
- Weigh regional differences in the permitting process rather than apply nationwide standards.
- Develop greater consistency Corps-wide for both permitting and application reviews.
- Develop an Internet system to provide permit status for individual applicants.
- Pursue opportunities for general permits for dredging and filling to insure rapid recovery from emergencies.